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PAUL PEJMAN EDALAT; OLIVIA

KARPINSKI; FARAH BARGHI; SENTAR

PHARMACEUTICALS, INC.; and EFT

GLOBAL HOLDINGS, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

BRUCE CAHILL, an individual, et al.,

Plaintiffs,

v.

PAUL PEJMAN EDALAT, an individual,
et al.,

Defendants.

AND RELATED CROSS-
CLAIMS/COUNTERCLAIMS.

Case No. 8:16-cv-00686-AG-DFM

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' *EX PARTE*
APPLICATION FOR ORDER
SHORTENING TIME ON MOTION
TO COMPEL AND ON MOTION TO
COMPEL ITSELF**

Discovery Cut-Off: 3/24/2017
Pretrial Conference: 5/22/2017
Jury Trial: 6/13/2017

Date: March 14, 2017
Time: 10:00 a.m.
Place: Courtroom 6B
Honorable Douglas F. McCormick

Defendants Paul Pejman Edalat, Olivia Karpinski, Farah Barghi, Sentar Pharmaceuticals, Inc., and EFT Global Holdings, Inc. oppose Plaintiffs' *Ex Parte* Application For Order Shortening Time on Motion to Compel and on Motion to Compel Itself on the following grounds:

I. INTRODUCTION

Plaintiffs request that this Court rule on the merits of their motion to compel the production of documents, or shorten time on the briefing and hearing motion. Plaintiffs' request effectively deprives Defendants of and ability to respond to Plaintiffs' Motion. To grant *ex parte* relief – especially where it deprives Defendants of a meaningful chance to respond – the Court must find that Plaintiffs have established good cause. Plaintiffs have not done so. Accordingly, the Court should deny the *ex parte* application, hear the motion on regular briefing, and afford Defendants the opportunity to review and respond to Plaintiffs' Motion.

II. DEFENDANTS ARE PARTICIPATING IN AN ONGOING GOOD FAITH ATTEMPT TO RESOLVE VARIOUS DISCOVERY ISSUES

Plaintiffs contend that they have sought to resolve this discovery dispute with Defendants. Further, Plaintiffs insinuate that Defendants have failed to meet and confer in good faith, thus requiring Plaintiffs to file this motion. This is not the case.

Plaintiffs' own facts show that Defendants have attempted to resolve the multiple discovery disputes without the need for the Court's intervention. Plaintiffs mischaracterizes Defendants conduct as obstructionist. Defendants have, in good faith, attempted to have a meaningful conversation with Plaintiffs' counsel regarding the issue now before the Court.

Further, there are other various outstanding discovery issues in this case requiring the Court's attention. First, Plaintiffs' witnesses have refused to answer questions at deposition. Second, Plaintiffs failed to produce documents requested by Defendants.

1 Third, Plaintiffs have failed to respond fully to interrogatories. Despite Plaintiffs'
 2 numerous discovery abuses, Defendants have steadfastly attempted to resolve these
 3 disputes without the need for judicial intervention. Defendants have not brought any
 4 discovery motions before this Court to date because, as contemplated by Local Rule 37-
 5 1, Defendants believe that nearly all discovery disputes should be handled informally,
 6 and only brought before the Court as a last resort.

7 Defendants remain optimistic that these issues should be resolved without court's
 8 intervention.

9
 10 **III. THE COURT SHOULD DENY PLAINTIFFS' REQUEST TO HEAR**
 11 **THE MOTION TO COMPEL ON THE MERITS WITHOUT GIVING**
 12 **DEFENDANTS PROPER TIME TO RESPOND**

13 A party seeking ex parte relief must show good cause, must show that it will be
 14 irreparably prejudiced if the underlying motion is heard on an ex parte basis, and it must
 15 establish that it is "without fault" in creating the crisis requiring ex parte relief. See,
 16 e.g., *Mission Power Engineering Co. v. Continental Cas. Co.*, 883 F. Supp. 488, 492
 17 (CD CA 1995).

18 Here, no good cause exists for the Court to hear the Motion to Compel *ex parte*
 19 with one day's notice. Discovery does not close until March 24, 2017. Additionally,
 20 Plaintiffs' counsel's convenience is not good cause for at least three reasons. First,
 21 Plaintiffs' selection of a Boston-based attorney for an Orange County dispute does not
 22 trump Defendants' right to respond to this motion. Second, the parties can confer to
 23 find a date for Mr. Markham to attend the hearing in person. Third, the Court could
 24 allow Mr. Markham to appear telephonically.

25 Further, Defendants will be prejudiced if the Court decides *ex parte* Plaintiffs'
 26 Motion to Compel on the merits without a chance to properly brief the opposition and
 27 address the issues. Indeed, Plaintiffs provide no authority to do so.

1 Defendants do not oppose a shortened briefing schedule and a hearing, provided
2 it is reasonable and reciprocal.

3 **IV. PLAINTIFFS' DISCOVERY REQUEST ARE OVERLY BROAD**

4 Plaintiffs' requests are overbroad. Their requests seek "any and all" emails, texts,
5 or documents referencing Sentar or Scilabs. Plaintiffs proposed limitations on the
6 requests to only those made by narrowing the identity of the sender to Edalat, Barghi
7 and Kaprinski. These requests are overbroad even considering Plaintiffs' proposed
8 limitations. (*See* Dkt. No. 193, Exhibit D).

9 The requests should be limited to emails from the individual Defendants
10 regarding Sentar or Scilabs made to Plaintiffs, or other Pharma Pak investors, only.
11 Emails and documents from Defendant Edalat, Barghi or Karpinski to outside investors,
12 manufacturers, suppliers, personal contacts, or other persons not affiliated with this
13 litigation are not relevant to the narrow issue of whether Edalat, Barghi or Karpinski
14 were acting as agents of Defendant EFT Global Holdings, Inc. and trying to induce
15 Plaintiffs' investment to Plaintiff Pharma Pak, Inc.

16 That EFT Global Holdings' Motion to Dismiss was denied by the Court does not
17 have bearing on this discovery issue. The Court's order, however, supports a finding
18 that the issue tethering EFT to this litigation is whether its agents made fraudulent
19 statements to induce Plaintiffs to invest in Pharma Pak. Thus, any discovery subject to
20 Federal Rules of Civil Procedure Rule 26 should be relevant and proportional to the
21 needs of the case. Requesting *all* emails from Defendants Edalat, Barghi and Karpinski
22 regarding Sentar or Scilabs is neither relevant nor proportional to the needs of the case.
23 As such, the Court should deny Plaintiff's Motion to Compel.

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25
26 **V. CONCLUSION**

27 Defendants respectfully request that the Court deny Plaintiffs' *ex parte*
28 application to rule on the merits of Plaintiffs' Motion to Compel and Plaintiffs' request

1 for an order shortening time. Further, if the Court grants the application to shorten time,
2 Defendants' respectfully request that the Court grant adequate time for Defendants' to
3 respond properly to Plaintiffs' Motion to Compel.

4
5 Dated: March 13, 2017

FORD & DIULIO PC

6
7 By: /s/ Eric V. Ta
8 Eric V. Ta

9 Attorneys for Defendants PAUL PEJMAN
10 EDALAT; OLIVIA KARPINSKI; FARAH
11 BARGHI; SENTAR PHARMACEUTICALS,
12 INC.; and EFT GLOBAL HOLDINGS, INC.
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CERTIFICATE OF SERVICE

I am employed in the county of Orange and state of California. I am over the age of 18 and not a party to the within action. My business address is 695 Town Center Drive, Suite 700, Costa Mesa, CA 92626.

On March 13, 2017, I served the foregoing documents described as: **OPPOSITION TO PLAINTIFFS' EX PARTE NOTICE FOR ORDER SHORTENING TIME ON MOTION TO COMPEL AND ON MOTION TO COMPEL ITSELF**

☒ **BY ELECTRONIC MAIL via the ECF filing system on:**

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Counsel for Plaintiffs Bruce Cahill, Greg Cullen, Shane Scott, Ron Franco, and Pharma Pak, Inc.

I declare under the penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

/s/ Eric V. Ta
Eric V. Ta